UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

v.

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NATIONAL ORGANIZATION FOR MARRIAGE, : INC.. :

Plaintiff,

: **DECLARATION OF** 

: CRAIG R. BUCKI IN OPPOSITION

: TO DEFENDANTS' MOTION FOR

: A PRELIMINARY INJUNCTION

JAMES WALSH, in his official capacity as co-chair : Case No.: 10-CV-751 of the New York State Board of Elections; : DOUGLAS KELLNER, in his official capacity as co-: chair of the New York State Board of Elections; EVELYN AQUILA, in her official capacity as commissioner of the New York State Board of

Elections; and GREGORY PETERSON, in his official capacity as commissioner of the New York

State Board of Elections,

Defendants.

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CRAIG R. BUCKI declares under penalty of perjury that the following is true and correct:

- 1. I am an attorney admitted to practice law in the State of New York, and in the United States District Court for the Western District for New York. I am associated with the law firm of Phillips Lytle LLP, counsel to Defendants Douglas Kellner and Evelyn Aquila in the above-captioned action. I make this Declaration as part of all four Defendants' opposition to the motion of Plaintiff National Organization for Marriage, Inc. ("NOM"), for a preliminary injunction.
- 2. Attached as **Exhibit A** is an article entitled, "A New Kind of Outing," from the September 28, 2010, edition of Newsweek. The article cites NOM's Internet website, which declares that NOM was founded in 2007 "in response to the growing need for an organized opposition to same-sex marriage in state legislatures" (emphasis added).

- 3. Attached as **Exhibit B** is an article entitled, "New National Religious Right Group Attacks Pro-marriage Equality MA State Legislator," <u>available at http://www.talk2action.org/story/2007/10/6/163643/040</u>. In this article, NOM Executive Director Brian Brown declares that "NOM's focus" includes efforts "to help candidates that support marriage, and to defeat those candidates that are working to undermine and redefine it."
- 4. Attached as **Exhibit C** is a press release issued by NOM on June 16, 2009, to announce the formation of "NOM PAC New York" "to engage in New York state legislative races." The release announces "an initial target goal of \$500,000 to fund primary challenges for any Republican state senator who votes for gay marriage." NOM Executive Director Brian Brown further declares that NOM is "looking to aid Democratic candidates who want to buck the establishment on the marriage issue, and to help in general election contests."
- 5. Attached as **Exhibit D** is an article entitled, "In Wake of Ballot Initiatives, Questions About the National Organization for Marriage's Funding," from the September 20, 2010, edition of the <u>Washington Independent</u>.
- 6. Attached as **Exhibit E** is an article entitled, "National Organization for Marriage Uses Campaign Loophole to Avoid Disclosure," from the August 18, 2010, edition of the Minnesota Independent.
- 7. Attached as **Exhibit F** is an article entitled, "National Opponents of Samesex Marriage Donate to D.C. Candidate Challenging Marriage Bill Author David Catania," from the March 12, 2010, edition of Metro Weekly.
- 8. Attached as **Exhibit G** is a press release issued by NOM on September 29, 2010. In this release, NOM vows to "expos[e] the truth about John Lynch," New Hampshire's Governor running for re-election in November 2010. "We want voters to know the truth and we

want John Lynch to know that this Election Day is judgment day," said NOM Executive Director Brian Brown. "We will not sit idly by and allow New Hampshire voters to be deceived."

- 9. Attached as <u>Exhibit H</u> is a statement posted on NOM's website on June 9, 2010. The statement trumpets NOM's "<u>central role in defeating</u> pro-gay marriage GOP Senate candidate Tom Campbell" in the California primary (emphasis added). "All told, [NOM] spent \$400,000 in TV ads, automated phone calls and internet advertising." In the same posting, NOM included a clickable button bearing the phrase, "DONATE NOW!" (emphasis in original). "Your gift of \$25, \$50, or even \$500 or more is urgently needed to help make sure we have the resources to stand for marriage wherever the threat arises," said the posting. "Please make a generous contribution today!"
- 10. Attached as **Exhibit I** is a press release issued by NOM on January 20, 2010. The release congratulates newly-elected United States Senator Scott Brown of Massachusetts, and declares that NOM "spent \$50,000 in the closing days of the campaign to identify marriage voters in Massachusetts and make sure they turned out and supported Scott Brown."
- 11. Attached as **Exhibit J** is a press release issued by NOM on August 25, 2009. The release announces NOM's launch of a "10-day radio and TV ad campaign in support of Republican candidate Stephen Burgmeier," who was running for a seat in the Iowa State Legislature.
- 12. Attached as **Exhibit K** is a press release issued by NOM on October 23, 2009. The release announces NOM's endorsement of Doug Hoffman to win election to the House of Representatives from New York's 23rd Congressional District. NOM Executive Director Brian Brown also promises that NOM would spend \$150,000 "to make sure New York

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voters understand how strangely extreme and out of touch Dede Scozzafava's [Hoffman's

opponent's] views are."

Attached as **Exhibit L** is a redacted copy of a deposition taken of NOM 13.

Executive Director Brian Brown in National Organization for Marriage, Inc. v. McKee, an action

in the United States District Court for the District of Maine (Civil Docket No. 1:09-cv-00538),

on May 26 and June 23, 2010. In this deposition, Brian Brown discusses NOM's efforts to

support and oppose candidates running for public office in California (see page 115, lines 19-23;

page 212, lines 17-25; page 213, lines 1-12), New York (see page 117, lines 4-8; page 180, lines

4-14), New Hampshire (see page 181, lines 5-15; page 182, lines 1-6, 15-25), Iowa (see page

183, lines 4-18), and Hawaii (see page 213, lines 20-25; page 214, lines 4-14); and to support

ballot initiatives in California (see page 177, lines 7-11) and Maine (see, e.g., page 195, lines 2-6

and 18-22; page 211, lines 6-8).

Attached as **Exhibit M** are financial disclosure reports electronically filed 14.

with the New York State Board of Elections in 2010 by "NOM PAC NY (National Organization

for Marriage PAC New York)."

EXECUTED: Buffalo, New York

October 13, 2010

PHILLIPS LYTLE LLP

/s/CRAIG R. BUCKI

Craig R. Bucki

Attorneys for Defendants Kellner and Aquila

3400 HSBC Center

Buffalo, New York 14203-2887

Telephone No.: (716) 847-8400

E-mail Address: cbucki@phillipslytle.com